

## MILPERSMAN 1910-134

### SEPARATION BY REASON OF DEFECTIVE ENLISTMENTS AND INDUCTIONS - FRAUDULENT ENTRY INTO NAVAL SERVICE

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References	(a) COMNAVCRUITCOMINST 1130.8F (b) BUPERSINST 1900.8A
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1. **Policy**. Members may be separated for effecting a fraudulent enlistment, induction, or period of service by falsely representing or deliberately concealing any qualifications or disqualifications prescribed by law, regulation, or orders. Reference (a) refers.

2. **Processing Procedures**

a. Use this table to determine processing procedures.

IF fraudulent enlistment involves	THEN use
concealing a prior separation that resulted in a punitive or Under Other Than Honorable (OTH) discharge; or  concealing an offense warranting OTH, if offense occurred while on active duty and would have prevented their enlistment;	Administrative Board Procedure (MILPERSMAN 1910-404).
any other type of concealment,	Notification Procedure (MILPERSMAN 1910-402).

b. Commanding officers (COs) should consider circumstances of each case in determining whether to pursue an OTH using administrative board procedures. In most instances, notification procedures are appropriate. Processing for an OTH

(using administrative board procedures) should only be used for most serious offenses. Examples where processing for an OTH would be appropriate include, but are not limited to: drug trafficking, concealing a prior service Dishonorable Discharge (DD), Bad Conduct Discharge (BCD), or OTH discharge, and crimes of violence.

c. If fraudulent enlistment is detected immediately after swearing-in ceremony at Military Entrance Processing Station (MEPS), MEPS commander will revoke any travel orders and transfer member temporary duty (TEM DU) to sponsoring Navy Recruiting District (NAVCRUITDIST). NAVCRUITDIST will process member using above procedures.

3. **Limitation.** Separations for fraudulent entry may not be suspended.

4. **Granting a Waiver.** A General Court-Martial Convening Authority (GCMCA) may grant a processing waiver when

- a. CO desires member to be retained, and
- b. defect is no longer present.

EXCEPTIONS	
Only Navy Personnel Command (NAVPERSCOM), Enlisted Performance and Separations Section (PERS-4832) may grant all waivers for any of the below offenses:	OR any combination of three or more of the following offenses:
<ul style="list-style-type: none"> <li>• Assault with dangerous weapon</li> <li>• Assault, intentionally inflicting great bodily harm</li> <li>• Assault with intent to commit felony</li> <li>• Carnal knowledge of female under 16</li> <li>• Car-jacking</li> <li>• Grand larceny; embezzlement over \$500</li> <li>• Indecent acts or liberties with child under 16</li> <li>• Indecent assault</li> <li>• Kidnapping</li> <li>• Manslaughter</li> <li>• Murder</li> <li>• Rape</li> <li>• Sedition</li> <li>• Sodomy</li> <li>• Stalking</li> </ul>	<ul style="list-style-type: none"> <li>• Accessory before or after the fact of a felony</li> <li>• Adultery</li> <li>• Altering, concealing, destroying, mutilating, obliterating, or removing public records</li> <li>• Arson</li> <li>• Attempt to commit a felony</li> <li>• Bomb threat</li> <li>• Bribery</li> <li>• Check, worthless, making or uttering, with intent to defraud or deceive (over \$500)</li> <li>• Child abuse</li> <li>• Concealing knowledge of a felony</li> <li>• Criminal libel</li> <li>• Depositing obscene or indecent matters in mail</li> <li>• Extortion</li> <li>• Forgery</li> <li>• Graft</li> <li>• Housebreaking</li> <li>• Knowingly receiving stolen property (value over \$500)</li> <li>• Mail matter: abstracting, destroying, obstructing, opening, secreting, stealing, or taking</li> <li>• Pandering</li> <li>• Perjury</li> <li>• Possession or use of narcotics, dangerous drugs, or marijuana</li> <li>• Riot</li> </ul>

5. **Waiver Contents.** Waiver requests must contain the following:

- a. A description of all addressed allegations.
- b. Any finding, decision, sentence, judgment, or disposition recorded or entered by jurisdictional authority.
- c. If disposition is still outstanding, a written statement of actions taken to resolve and estimated completion date.
- d. Member's written statement explaining why fraudulent enlistment was effected, circumstances surrounding issue, and why issue was not disclosed at recruit training's Moment of Truth (MOT).
- e. CO's statement addressing fraudulent enlistment issue, member's performance of duty, and potential for further service.

6. **If Waiver is Approved**

a. GCMCA shall direct requesting command to prepare the following NAVPERS 1070/613 (Rev. 10-81), Administrative Remarks (MILPERSMAN 1910-204). Modify paragraph 1 of NAVPERS 1070/613 as follows:

"You are being retained in Naval Service despite your defective enlistment and induction due to fraudulent entry into Naval Service as evidenced by your failure to disclose (reason for requesting waiver). AUTHORITY: (GCMCA waiver authority letter or message)."

b. A complete copy of waiver package, to include approval and NAVPERS 1070/613, will be submitted to NAVPERSCOM (PERS-4832) for filing in member's permanent record.

7. **Characterization of Service**

a. Further guidance on characterization of service is provided in MILPERSMAN 1910-300. This table provides general information based on type of procedures used.

IF	THEN least favorable characterization
Notification Procedure is used,	is GEN, per MILPERSMAN 1910-300.
Administrative Board Procedure is used,	is OTH, per MILPERSMAN 1910-300.

b. If member has less than 180 days of service, an Entry Level Separation may be appropriate. See MILPERSMAN 1910-308 for further guidance.

**8. Exception to Rule for Recruit Training Command (NAVCRUITRACOM)/Naval Training Center (NTC) Great Lakes**

a. Recruits must be administratively separated and assigned an RE-3J reenlistment code provided they

(1) failed entry-level drug testing **for marijuana only** upon arrival,

(2) were direct-ships (less than 30 days in Delayed Entry Program), and

(3) confessed to **use of marijuana only** during MOT.

b. This Chief of Naval Operations (CNO) exception allows potentially good recruits to overcome their drug abuse, and opportunity to reenlist after a minimum 6-month waiting period.

c. If recruit does not meet this criteria, process for all other reasons for which minimum criteria is met, and assign an RE-4 reenlistment code.

**9. Separation Program Designator (SPD).** Per reference (b), the following SPD codes are to be used:

SPD CODE	EXPLANATION
GDA - Fraudulent Entry GDT - Fraudulent Entry (Drug Abuse) GDU - Fraudulent Entry (Alcohol Abuse)	Involuntary discharge, approved recommendation of a board. (Use when administrative board was held.)
HDA - Fraudulent Entry HDT - Fraudulent Entry (Drug Abuse) HDU - Fraudulent Entry (Alcohol Abuse)	Involuntary discharge in lieu of further processing or convening of a board. (Use when administrative board was waived.)
JDA - Fraudulent Entry JDT - Fraudulent Entry (Drug Abuse) JDU - Fraudulent Entry (Alcohol Abuse)	Involuntary discharge, no board entitlement. (Use when member has less than 6 years of total active service.)